IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6065 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ARVIND K.VANKANI,SECRETARY, GUJARAT VISUAL ARTISTS ASSO. - Petitioner(s)

Versus

STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MS PAURAMI B SHETH for Petitioner(s) : 1,
MR MAULIK NANAVATI, AGP for Respondent(s) : 1 - 4.

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 28/11/2007

ORAL JUDGMENT

1. This petition challenges Government Resolution dated 16.10.1992 to the extent the said Resolution deletes the provision of election of Members to the General Council of Gujarat Lalit Kala Academy. The case of the petitioner is that while accepting the suggestions of High Power Committee to grant autonomous status to the Lalit Kala Academy the process of election, which was being followed earlier, has been given a go-bye and a process of nomination has been introduced by the impugned Resolution which violates the spirit and the purpose for which the Lalit Kala Academy has been set-up. It was therefore urged that while upholding the Resolution to the extent of granting autonomous status to the Lalit Kala Academy, the Resolution may be struck down to the extent nomination is provided for appointment of the Members to the General Council.

2. As against that on behalf of the respondents it is contended that in the first instance the

Resolution of 1992 has been challenged only in 2001 and hence, the petition is barred by delay and laches as well as acquiescence and hence, the petition be rejected without entering into merits of the matter. Reliance has also been placed on order of this Court rendered on 21st December, 1993 in the case of *Mahendra Kadia & Ors. V/s. State of Gujarat & Ors.* in Special Civil Application 5940 of 1991 to submit that same issue has been dealt with by the Court and the said petition has been rejected.

3. The submissions made on behalf of the petitioners can best be summarized by reproducing the following averments made on behalf of the petitioners:

> *"I further say and submit that prior to 1992 there has been election process. At each time respected elected body was organizing number of programme with a view to provide various opportunities and ground to new artists to promote their art. The elected body was arranging for exhibitions, where new artists were able to place there paintings who were even otherwise not able to have individual exhibition due to*

financial reasons etc. Earlier minimum once in a year the elected body of the Akadami was organizing outdoor tours outside Gujarat State at different natural places which was providing the artists more imagination which inturn was ultimately helping them in their paintings. They were purchasing latest books which were helping the artist to move with the time. This is not only enough. All the endeavor of the elected body was in the direction that interest of the artists were promoted which were helping them to grow and shine out anywhere in India as well as abroad and for that purpose the respective elected body was putting their all efforts. The Government is giving the grant to the Akademi which was utilized fully and out of which maximum programmes were arranged. As against that after 1992, nominated body has taken over. Who has gradually failed in organizing the programmes. As per my information the nominated body is not utilizing the grant fully and allowing the same to be lapsed. I submit that according to my information the nominated body now does not organize frequent exhibitions arrange for outstation tours nor taking any steps on the line which can provide grounds for new artists to grow. Being the member of the center. I also come to know if any such exhibitions are organized or out station

tours are arranged sometimes I get special invitation. This year till August, 2002 they have not organized single outdoor location tour. These instances show that earlier functioning by elected body was for better than the functioning of the nominated body. They are not purchasing the books and thus exhaust all the grant given to academy for the said purpose nor updating the library which is essential in the present, fast and competitive world. In the circumstances it is denied that various activities and functions mentioned in the constitution have been duly implemented and carried out by the nominated body in its true terms and spirit and also for the welfare of the artist of large. The Hon'ble Court may call upon the Respondents to furnish details about the various activities and functions undertaken by them and the figures how many artists have been promoted on account of the same".

4. Thus, it can be seen that more than the dispute as to whether a Member should be elected or nominated, the grievance of the petitioner appears to be against the Council for their inaction. If certain persons do not discharge their duties it cannot be stated that the Constitution of the Committee is bad

in law because such Constitution is of Members nominated by the process laid down in the policy resolution.

5. In so far as the challenge to the process of nomination is concerned it is apparent that majority of the Members have to be inducted by the artists themselves as can be seen from the provision for the Constitution of the Committee and hence, it is not possible to find any deficiency in the process which would vitiate the resolution as such. In any view of the matter this is a policy decision and it is not possible to undertake review of such a decision. If the petitioners so desire they can move the Government for undertaking a comprehensive policy review.

6. The petition is accordingly rejected. Rule discharged. There shall be no order as to costs.

(D.A.MEHTA, J.)

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